

UNITED STATES COURT OF APPEALS

Filed 3/1/96

TENTH CIRCUIT

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UNITED STATES OF AMERICA,	)	
	)	
Plaintiff-Appellee,	)	
	)	<b>No. 95-6225</b>
v.	)	(D.C. No. CR-92-108-T)
	)	(W.D. Okla.)
PABLO LUIS GOMEZ,	)	
	)	
Defendant-Appellant.	)	

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**ORDER AND JUDGMENT\***

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Before **SEYMOUR**, Chief Judge, **MCKAY**, and **LUCERO**, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. 34(a); 10th Cir. 34.1.9. The cause is therefore ordered submitted without oral argument.

Mr. Pablo Luis Gomez, a pro se prisoner, appeals the district court's denial of his

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\*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions 10th Cir. R. 36.3.

second motion seeking post conviction relief pursuant to 28 U.S.C. § 2255. Mr. Gomez contends he is entitled to (1) a reduction in his sentence under 18 U.S.C. § 3553(f) and (2) an evidentiary hearing to obtain a ruling to his objections to the presentence report.

Mr. Gomez did not file a direct appeal. He first raised his objection in a motion for post conviction relief. “The failure of a defendant to present an issue on direct appeal bars the defendant from raising such an issue in a § 2255 motion . . . unless good cause is shown.” United States v. Khan, 835 F.2d 749, 753-54 (10th Cir. 1987), cert. denied, 487 U.S. 1222 (1988). We have carefully reviewed the record and Mr. Gomez’s arguments on appeal, and we hold that he has failed to show good cause. Accordingly, we affirm substantially for the reasons given by the district court. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephanie K. Seymour  
Chief Judge